

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRITZ DAIRY FARMS, LLC, et al.,)	CASE NO.: 5:12-CV-1736-JRA
)	
Plaintiffs)	
v.)	JUDGE JOHN R. ADAMS
)	
CHESAPEAKE EXPLORATIONS, LLC, et al.,)	
)	<u>RESPONSE TO MOTION FOR CONTEMPT</u>
Defendants)	
)	

Now come Plaintiffs, Fritz Dairy Farms, LLC, Michelle Fritz, and Mark Fritz, who hereby respond to Defendants' Motion for Contempt as follows:

On February 13, 2013 a hearing was held regarding the enforcement of the settlement. At the conclusion of the hearing, the Court indicated that, "barring an **appeal**," Plaintiffs were to execute the necessary documents. (Defendants misstated Judge Adam's words on page two of the Motion for Contempt). The Journal Entry was filed until March 1, 2013, thus there was no final order capable of being appealed or stayed until March 1, 2013. FRAP 8(a)(1) allows a party to move the district court for a stay "pending appeal," which implies that an appeal must have been filed before such a request may be made. Therefore, a request for a stay pending appeal would have been premature until after March 1, 2013 when a Notice of Appeal could be filed.

Counsel for Plaintiffs' February 19 and March 8 e-mails, attached to Defendants' Motion, put Defendants on notice that 1) an appeal was forthcoming; and 2) that a stay would be sought. Indeed, the Notice of Appeal was filed on March 22, 2013 and a Motion for Stay is being filed contemporaneously with this response.

The Plaintiffs are not unwilling to comply with the Court's order. They intend to comply with the Order if the 6th Circuit Court of Appeals affirms it. Additionally, if Plaintiffs executed all of the documents, but the Court of Appeals reverses, then Defendants will be forced to undertake all of the steps necessary to remove the leases from the property records.

Respectfully submitted,

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C E R T I F I C A T E O F S E R V I C E

I hereby certify that a true copy of the foregoing was served to all parties via the Court's CM/ECF system in accord with Fed. R. Civ. P. 5(b)(2)(E), this 1st day of April, 2013.

/s/ Warner Mendenhall
Warner Mendenhall, 0070165
Attorney for Plaintiffs